

awarded to the moving party absent a showing of good cause for the non-disclosure by the opposing party. A party against whom a motion to compel is enforced may only avoid payment of sanctions by demonstrating that its position is substantially justified. *See Rickels v. City of South Bend*, 33 F.3d 785, 787 (7th Cir. 1994). Further, a party may not avoid sanctions merely by serving responses after a motion to compel has been filed. *See Illinois Tool Works, Inc. v. Metro Mark Prods., Ltd.*, 43 F. Supp. 2d 951, 960 (N.D. Ill. 1999) (citing *Second Chance Body Armor, Inc. v. Am. Body Armor, Inc.*, 177 F.R.D. 633, 636 (N.D. Ill. 1998)).

Considering the parties' submissions, the court finds that defendant's motions should be granted and that the defendant should be awarded its reasonable costs and attorney's fees incurred in attempting to obtain discovery from the plaintiff.

IT IS ORDERED that defendant's Motion to Compel [60] is granted, as follows:

1. If it has not already done so, plaintiff shall immediately produce all information responsive to defendant's Third Set of Interrogatories and defendant's Third Set of Requests for Production of Documents.

2. Plaintiff shall, upon request, immediately deliver the laptop computer identified in defendant's Rule 34(a) request to defense counsel for physical inspection by a neutral third party, and for purposes of inspecting and copying the electronic information requested by the defendant. **Access to any non-responsive information retrieved from this computer shall be restricted to counsel of record, their experts, and necessary support staff.**

3. Pursuant to Fed. R. Civ. P. 37(a)(4)(A), defendant is given leave to file a Motion for attorney's fees, together with an affidavit attesting to the time and expenses incurred in preparing the instant motion to compel. Said motion shall be filed as soon as is practicable.

IT IS FURTHER ORDERED that defendant's SECOND MOTION TO AMEND DEADLINE TO FILE DISCOVERY MOTIONS [62] is granted. Any necessary discovery motions shall be filed as soon as is practicable.

DATED October 11, 2007.

BY THE COURT:

s/ F.A. Gossett
United States Magistrate Judge